

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 02-0333P**

**Adjusted Gross Income Tax  
For Calendar Year Ended 12/31/2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer filed its return late and was assessed a penalty. Taxpayer's tax liability was \$176,514.76, \$71,404.65 of which came from a prior year overpayment. Taxpayer remitted the balance of \$105,110.00 after the due date of the return. An extension to file is not an extension for payment and the taxpayer was assessed a late payment penalty.

Taxpayer filed a penalty protest in a letter dated June 27, 2002.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that it timely filed its request for an extension of time. Taxpayer states that due to extenuating circumstances, the estimated tax that was calculated for 2000 at the time of the extension request was insufficient to satisfy the liability and the balance of the tax due was paid by the extended due date of the return. Taxpayer states there were two factors that impacted the underestimation of tax due at the time of the extension. The first factor related to bonus payments that were not paid by March 15, 2001 and therefore, not deductible until tax year 2001. The second factor is that the activity changed significantly during 2000 whereby the Indiana apportionment increased from 37% to 81.9%.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use

such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to remit more than fifty percent (50%) of its tax by the due date of the return, did not remit one hundred percent (100%) of the prior year's tax by the due date, nor has provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.